

Message Text

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PAGE 01 BONN 00807 161735Z

ACTION EB-08

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FM AMEMBASSY BONN

TO SECSTATE WASHDC 4818

INFO AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY HELSINKI

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY TOKYO

AMEMBASSY THE HAGUE

AMEMBASSY OSLO

AMEMBASSY STOCKHOLM

AMEMBASSY MADRID

AMEMBASSY BERN

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E.O. 11652: N/A

TAGS: EAIR, GW

SUBJECT: CIVAIR: NEW CAB ADVANCE FILING REQUIREMENTS

REF: A. 77 STATE 298473 B. 77 BONN 21085

1. EMBASSY JANUARY 9 RECEIVED FOREIGN OFFICE REPLY TO EMBASSY AIDE MEMOIRE TEXT OF WHICH CONTAINED REF A. EMBASSY TRANSLATION OF SUBSTANTIVE PORTION OF FOREIGN OFFICE NOTE FOLLOWS:

2. THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAS NOTED THAT A LEGISLATIVE CHANGE TOOK PLACE IN THE UNITED STATES EFFECTIVE DECEMBER 10, 1977, BY WHICH THE FILING PERIOD FOR AIRLINE TARIFFS WAS EXTENDED TO UNCLASSIFIED

UNCLASSIFIED

PAGE 02 BONN 00807 161735Z

45 DAYS FOR PASSENGER AND TO 60 DAYS FOR CARGO TARIFFS, BUT THAT THE AERONAUTICAL AUTHORITIES OF THE UNITED STATES IN ACCORDANCE WITH ARTICLE 11 OF THE GERMAN-AMERICAN BILATERAL AIR TRANSPORT AGREEMENT WILL CONTINUE TO CONSIDER RATE FILINGS UP TO 30 DAYS PRIOR TO THE PROPOSED DATE OF INTRODUCTION, SUCH FILINGS, HOWEVER, REQUIRING A TRANSMITTAL AS "SHORT NOTICE FILINGS".

3. THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY, IN PRINCIPLE, WELCOMES AN EXTENSION OF THE FILING PERIODS FOR AIRLINE RATES. THE TIME THUS GAINED, HOWEVER, SHOULD NOT BE ABSORBED BY LONGER ACTION PERIODS ON THE PART OF THE AUTHORIZING AUTHORITIES. ON THE CONTRARY, BY AN EARLIER RECEIPT OF THE AUTHORIZATION, THE AIR CARRIERS SHOULD BE ABLE TO INFORM THE PUBLIC AS EARLY AS POSSIBLE SO THAT IT MAY ADJUST TO THE NEW AIRLINE RATES. UNDER THIS VIEWPOINT, THE EXTENSION OF THE FILING PERIODS WOULD CONSTITUTE AN IMPROVEMENT IN THE INTEREST OF THE TRAVELLING PUBLIC.

4. THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY WISHES TO RECALL, HOWEVER, THAT THE AIR TRANSPORT AGREEMENT CONCLUDED WITH THE UNITED STATES OF AMERICA ON JULY 7, 1955, BY RATIFICATION LAW IN THE FEDERAL REPUBLIC OF GERMANY HAS BECOME LEGALLY BINDING. AMENDMENTS TO THE AGREEMENT ARE SUBJECT TO THE CONCURRENCE OF THE GERMAN PARLIAMENT (BUNDESTAG). THEY CAN, THEREFORE, NOT BE AGREED ON AN ADMINISTRATIVE LEVEL WITHOUT FORMAL SANCTION BY THE LEGISLATIVE BODIES. UNILATERAL CHANGES OF PROVISIONS OF THE AGREEMENT THROUGH NATIONAL LEGISLATION ALSO ARE NOT EFFECTIVE FOR AN AIRLINE DESIGNATED BY THE OTHER CONTRACTING PARTY SHOULD THAT AIRLINE CITE THE AGREEMENT, WHICH TAKES PRECEDENCE

UNCLASSIFIED

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PAGE 03 BONN 00807 161735Z

OVER SPECIAL NATIONAL REGULATIONS, UNLESS THE LATTER ARE SPECIFICALLY REFERRED TO IN THE AGREEMENT.

5. INASMUCH AS THE GOVERNMENT OF THE UNITED STATES HAS ALREADY TWICE PROPOSED DEVIATIONS FROM THE RATE CLAUSES OF ARTICLE 11 OF THE AGREEMENT WITH RESPECT TO PROCEDURAL PRACTICES, THERE APPEARS INDICATED TO THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY A REVISION OF THE RATE CLAUSE, WHICH ALSO IN OTHER RESPECTS CALLS FOR A REVIEW. THE GOVERNMENT WOULD GLADLY BE PREPARED TO ENTER INTO NEGOTIATIONS SHOULD THE GOVERNMENT OF THE UNITED STATES SO DESIRE.

STOESSEL

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